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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,485	07/31/2003	Matthew W. Holt	12492.0276	6408

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Step toe & Johnson LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036

EXAMINER

LEPISTO, RYAN A

ART UNIT	PAPER NUMBER
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2883

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/633,485

Applicant(s)

HOLT ET AL.

Examiner

Ryan Lepisto

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9,11-13,15 and 17-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9,11-13,15,17,18 and 24 is/are allowed.
- 6) ☒ Claim(s) 19,23 and 25-33 is/are rejected.
- 7) ☒ Claim(s) 20-22 and 34-36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claims 19, 32 and 35-36 are objected to because of the following informalities:

In claim 19 it is recommended that the amended portion be changed to match the amended portion of claim 33. This can be done by also deleting "the second region" so the fourth paragraph reads – ...an epoxy seal being molded about the metal plating and extending partly into... –. In claim 32, please replace "directed" with – directly –.

Claims 35 and 36 seem to be dependent from the wrong claims. There is no proper antecedent basis for the first and second conductive tubes and housing in these claims in claim 33. It will be assumed that claim 35 should depend from claim 34 and claim 36 should depend from claim 35. Assuming this, there is proper antecedent basis for all the limitations. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19 and 23-33 are rejected under 35 U.S.C. 102(b) as being anticipated by **Filas et al (US 6,088,504)** (Filas). Filas teaches a system for transmission through an in-line hermetic seal (Figs. 2-3) comprising a communications cable (connecting electronics, column 1 lines 24-38) (22) having at least a fiber having a first coating (left

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end), a second region (middle) wherein the coating is removed, and a third region having a second coating (right end) (column 2 lines 46-48), a nickel and gold metal plating in contact with the second region (column 3 lines 2-5), epoxy bonding seals (32) bonding the first and second regions creating a seal, a conductive metal tube (28) that the cable passes through and covered by an insulative Kovar tube (26).

The product-by-process limitations of the epoxy seal being molded with the second region being placed in a mold for a sufficient time to bond the epoxy to the metal plating and the metal plating being formed by chemical vapor deposition are only considered in the structure they add to the claim and not the process claimed. The structural limitations considered are the epoxy being bonded to the metal plating of the fibers and the structure of the fibers being metal plated. "[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985) (citations omitted).

The structure implied by the process steps should be considered when assessing the patentability of product-by-process claims over the prior art, especially where the product can only be defined by the process steps by which the product is made, or where the manufacturing process steps would be expected to impart distinctive

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structural characteristics to the final product. See, e.g., *In re Garnero*, 412 F.2d 276, 279, 162 USPQ 221, 223 (CCPA 1979).

Allowable Subject Matter

Claims 9, 11-13, 15, 17, 18 and 24 are allowed.

Claims 20-22 and 34-36 (here the assumption is that claims 35 and 36 depend from claim 34) are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

With regard to claim 9: This claim is allowable over the prior art of record because the latter, either alone or in combination, does not disclose nor render obvious a method of forming a seal on a cable having a core material with the steps of removing an amount of an overlayer on the core to expose a surface of the core, creating a bonding layer by plating the exposed core with a metal forming a metal-plated surface, applying a bonding agent to a portion of the metal-plated surface by placing a region of the cable into a mold and applying epoxy to the region of the cable in the mold for a sufficient time to bond the epoxy to the metal-plated surface, in combination with the rest of the claimed limitations.

With regard to claim 15: This claim is allowable over the prior art of record because the latter, either alone or in combination, does not disclose nor render obvious

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an optical fiber cable including a plurality of optical fibers having silica cores, a first region where the fibers have not coating, a second and third regions where the fibers have a coating, metal-plating applied to the first region, an epoxy seal bonded to the metal plating of the fibers in the first region and extending partly onto the first and second regions, a first conductive tube surrounding a portion of the second region, a second conductive tube surrounding a portion of the third region and a conductive housing surrounding a portion of the first region including the seal wherein the first and second tubes and the housing form a continuous conductive path.

With regard to claims 20 and 34: This claim would be allowable over the prior art of record if rewritten in independent form including all of the limitations of the base claim and any intervening claims because the latter, either alone or in combination, does not disclose nor render obvious a first conductive tube surrounding a portion of the second region, a second conductive tube surrounding a portion of the third region and a conductive housing surrounding a portion of the first region including the seal wherein the first and second tubes and the housing form a continuous conductive path, in combination with the rest of the claimed limitations.

With regard to claims 17, 18, 21, 22, 35 and 36: These claims are allowable over the prior art of record because they depend from claims with allowable subject matter.

Response to Arguments

Applicant's arguments with respect to the rejected claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following reference all teach sealing a cable having a metal-clad fiber (normal clad removed) portion surrounded by a molded portion: Nakai et al (US 4,295,707), Jenkins (US 4,707,065), Dunn et al (US 5,970,194), Kuroha (US 2001/0033729 A1).

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Lepisto whose telephone number is (571) 272-1946. The examiner can normally be reached on M-Th 7:30 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on (571) 272-2415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Ryan Lepisto
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